

REMARKS

Applicants and the undersigned are most grateful for the time and effort accorded the instant application by the Examiner. The Office is respectfully requested to reconsider the rejections presented in the outstanding Office Action in light of the following remarks.

Claims 1-3, 5-9, 11-14, 16-20, 22 and 23 were pending at the time the outstanding Office Action was issued by the Examiner. Of these, Claims 1, 12 and 23 are independent claims, the remaining claims are dependent. Applicants have amended Independent Claims 1, 12, and 23 herein.

On Monday, July 28, 2008, Applicants' representatives conducted a telephone interview with Examiners Qing Chen and Wei Zhen during which the rejections and the art of record were discussed. While no agreement was reached, it was agreed that the Examiners would telephone the undersigned prior to issuing a further action if the claims as presented herein were not immediately allowable.

Applicants are not conceding in this application that the claims amended and herein are not patentable over the art cited by the Examiner, as the present claim amendments are only for facilitating expeditious prosecution. Applicants respectfully reserve the right to pursue these and other claims in one or more continuations and/or divisional patent applications. Applicants specifically state no amendment to any claim herein should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claim.

Claims 1-3, 5-9, 11-14, 16-20, 22, and 23 stand rejected under 35 U.S.C. 103(a) as being obvious in light of U.S. Patent Application No. 2003/0088605 to Beghtel (hereinafter “Beghtel”) in view of U.S. Patent No. 6,834,386 to Douceur et al. (hereinafter “Douceur”). Reconsideration and withdrawal of these rejections is respectfully requested in light of the following.

Applicants reiterate (and incorporate by reference) the arguments made with respect to Douceur and Beghtel in the previous responses submitted in November 2007 and March 2008, and for the following additional reasons respectfully request reconsideration and withdrawal of the rejections.

Regarding the Beghtel reference, Applicants respectfully submit that Beghtel cannot account for the deficiencies of Douceur as discussed previously. Applicants point out that while at first glance, Beghtel appears to provide for a similar insertion of the derived throttling level (i.e., self-throttling approach), the approach in Beghtel stands in stark contrast to the self-throttling of the instantly claimed invention. Beghtel, as best understood, appears to be concerned with the implementation of self-throttling, whereas the present invention is focused on the infrastructure and dynamic updating behind self-throttling. (See, e.g., Beghtel Figure 3 and accompanying description; Specification Figures 7 and 8 and accompanying text.) Furthermore, it is clear from the same comparable figures that the throttle specification of Beghtel is received from outside of the loop at the start of task execution. Whereas in the comparable throttle specification of the present invention it is clear that that throttle specification is dynamically updated until the task is finished. (See e.g., Specification page 20, lines 17-20: “several iterations of the work loop of the utility”.)

Solely in an effort to facilitate expeditious prosecution of the present application the independent claims have been rewritten to require *inter alia*,

A system comprised of a computer processor configured for executing a computer program stored in computer memory so as to regulate resource consumption in a computer system used for utility work and production work, the system further comprising: a *manager module* arrangement for determining *and registering* at least one utility within the computer system, *wherein said registering informs the manager module of the existence of the at least one utility*; an arrangement for deriving a throttling level for the at least one utility which quantifies the reduction in the rate at which the at least one utility consumes resources; and an arrangement for optionally inserting the derived throttling level at a selected point during execution of the at least one utility, *wherein inserting the derived throttling level is updated dynamically through several iterations of a work loop until said utility has completed its work and then deregisters with the manager module*; wherein said arrangement for optionally inserting the derived throttling level is implemented within the at least one utility, *said utility being configured to dynamically self-throttle and not require an operating system to throttle the utility*.

(Claim 1, emphasis added). Independent Claims 12 and 23 have been similarly rewritten.

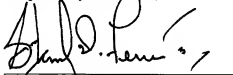
The claims as rewritten find full support in the Specification as originally filed. (*See, e.g.*, Specification at page 17, line 14 - page 20, line 20. *See also e.g.*, FIGS.7, 8 and 13.).

The claims as rewritten are intended to clarify the self-throttling approach of the present invention. These claimed features are not taught or suggested by Beghtel either alone or in combination with Douceur (or any other cited reference).

In view of the foregoing, it is respectfully submitted that independent Claims 1, 12 and 23 fully distinguish over the applied art and are thus allowable. By virtue of dependence from Claims 1, 12 and 23, it is thus also submitted that Claims 2, 3, 5-9, 11, 13, 14, 16-20 and 22 are also allowable at this juncture.

In summary, it is respectfully submitted that the instant application, including Claims 1-3, 5-9, 11-14, 16-20, 22 and 23, is presently in condition for allowance. Notice to that effect is hereby earnestly solicited. If there are any further issues in this application, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Stanley D. Ference III', is written over a horizontal line.

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